

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CONRAD SMITH, DANNY MCELROY,
BYRON EVANS, GOVERNOR LATSON,
MELISSA MARSHALL, MICHAEL
FORTUNE, JASON DEROCHE, *and*
REGINALD CLEVELAND,

Petitioners,

– *against* –

RUDOLPH GIULIANI,

Respondent.

ORDER

24-mc-0351 (ER)

RAMOS, D.J.:

Movants brought this action against Rudolph Giuliani on August 1, 2023, petitioning the Court to enforce their non-party subpoena *duces tecum* to Rudolph Giuliani. Docs. 1, 1-B. Specifically, Movants petition the Court to compel Giuliani to produce documents responsive to eleven document requests, which Movants assert are directly relevant to the pending underlying action, *Smith v. Trump*, 21-cv-02265 (D.D.C.). *Id.*

According to Movants, on April 26, 2024, they served the subpoena pursuant to N.Y. CPLR § 308(2) on Giuliani “by both delivering the [s]ubpoena to a person ‘of suitable age and discretion,’ Mr. Giuliani’s doorman, at Mr. Giuliani’s ‘usual place of abode,’ in New York, and mailing the [s]ubpoena to the same address via certified mail.”¹ *Id.* Giuliani was required to respond within 14 days, by May 10, 2024, however, no response was made by

¹ Movants assert that this was after twice attempting personal service on Giuliani at his Florida residence on October 18, 2023, and March 28, 2024. *Id.*

that date or within two months thereafter.² *Id.*

On August 1, 2024, Movants filed this action and requested a pre-motion conference regarding an intended motion to compel Giuliani to comply with the subpoena. *Id.* At the August 20, 2024 conference, the Court set a briefing schedule for the motion to compel, with the motion papers due September 10, 2024, response due October 1, 2024, and reply due on October 8, 2024.

On September 10, 2024, Movants filed their motion to compel. Doc. 11. According to Movants, following the August 1, 2024 conference, they made three attempts to serve the motion papers on Giuliani “in the same manner that Movants served the original [s]ubpoena,” as instructed by the Court. Doc. 17 at 1.

On September 30, 2024, Movants informed the Court that they had discovered, after filing the motion to compel, that “Giuliani had allegedly moved to Florida after the Subpoena was served, and was purportedly selling his residence in New York.” Doc. 17 at 1. Accordingly, on September 19, 2024, Movants delivered a copy of the motion to compel to Giuliani’s Florida address via Federal Express. *Id.* at 2.

On October 8, 2024, Movants provided a status update to the Court regarding their scheduled reply papers, due the same day. Doc. 18. Movants stated that “[g]iven [Giuliani’s] failure to provide motion response papers by October 1, 2024, ask the Court for an extension, or otherwise respond to the [s]ubpoena and subsequent motion, Movants view this motion as ‘unopposed, fully briefed, and ripe for a decision,’ and respectfully request the Court to take the same position.” Doc. 18 (quoting *Sines v. Yiannopoulos*, 20-mc-241 (KPF),

² While no attorney has entered an appearance on behalf of Giuliani in the instant action, Movants state that attempts at contacting Giuliani’s attorneys, including attorneys representing him in other pending cases, have proved unsuccessful. *Id.*

2020 WL 7182440, at *2 (S.D.N.Y. Dec. 7, 2020)). Movants further stated that if “the Court should *sua sponte* grant [Giuliani] an extension of his opposition deadline, [] Movants reserve all rights.” *Id.*

In light of the recently discovered information regarding Giuliani’s alleged change of residence, and to avoid prejudice to Giuliani, the Court *sua sponte* extends Giuliani’s deadline to oppose or otherwise respond to the motion to compel, Doc. 11, from October 1, 2024 to October 23, 2024, two weeks from the date of this Order. Movants’ reply will be due the following week, on October 30, 2024. Movants are directed to serve Giuliani—today, October 9, 2024—at his Florida address via Federal Express.

It is SO ORDERED.

Dated: October 9, 2024
New York, New York

A handwritten signature in blue ink, appearing to read 'Edgardo Ramos', is written above a horizontal line.

EDGARDO RAMOS, U.S.D.J.